IN THE HIGH COURT OF BOMBAY AT GOA

FIRST APPEAL NO.31 OF 2000

1. Special Land Acquisition
Officer (South Goa),
Konkan Railway Corporation
Limited, Amey Guest House,
Davorlim Road, P.O.
Navelim, Salcete, Goa,
403 707, and

2. Chief Engineer, Konkan
Railway Corporation Ltd.,
Rawnfond, near Margao
Railway Station, Margao, Goa. ..... Appellants.

Versus

1. Molu Ranganath Naik Gaunkar,
r/o. Nagarcem, Canacona, Goa. ..... Respondent.

Mr. E. Afonso, Advocate for the appellants.

Mr. P.A. Kamat, Advocate for th respondent.

COAM : A.P. LAVANDE, J.

DATE : APRIL 15, 2005.

ORAL JUDGMENT :

By this appeal, the appellants challenge Judgment and Award dated 30.10.1999, passed by the Additional District Judge III (South) Margao in Land Acquisition Case No.133/95.

2. By Notification dated 4.7.1991, issued under Section 4(1) of the Land Acquisition Act, 1894 (hereinafter, referred to as `the Act'), the Government acquired large chunks of lands, situated at Chaudi Canacona. Lands belonging to the respondent bearing Survey Nos.93/9, 98/1 and 93/10 were part of the acquired lands. The land bearing Survey No. 98/1 admeasured 312 sq. metres which was a bharad land and lands bearing survey Nos. 93/9 and 93/10 which admeasured 650 and 640 sq. metres respectively, were paddy fields. The Special Land Acquisition Officer, by his Award awarded Rs.9/- per sq. metre for paddy fields and Rs.20/- per sq. metre for the bharad land.

3. Being dissatisfied, the respondents sought reference. The reference Court enhanced the compensation in respect of paddy fields from Rs.9/- per sq. metre to Rs.24/- per sq. metre, and in respect of the bharad land from Rs.20/- to Rs.32/- per sq. metres relying upon the Award dated 15th March, 1989 passed by this Court.

4. The only point for determination which arises in the present appeal is whether the compensation fixed by the reference Court in respect of the paddy fields at the rate of Rs.24/- per sq. metre and in respect of the bharad land at the rate of Rs.32/- per sq. metre is legal

and justified and, if not, what is the compensation payable in respect of the acquired lands ?

5. Mr. Afonso, learned Counsel appearing for the appellants submitted that the reference Court ought not to have awarded Rs.24/- per sq. metre in respect of the paddy fields inasmuch as the said lands had no building potential. The learned Counsel submitted that in any event, the reference Court ought not to have granted increase of 10 % every year based on the Award dated 15th March, 1989. The learned Counsel further submitted that in connected appeals arising out of the same notification, this Court has granted Rs.19/- per sq. metre for the paddy fields and, therefore, in any event, the compensation cannot exceed Rs.19/- per sq. metre.

In so far as bharad land is concerned, the learned Counsel submitted that the reference Court could not have relied upon the earlier Award dated 15th March, 1989, which was in respect of Notification dated 30th April, 1986. It was further submitted that the reference Court ought not to have granted increase of 10 % every year in respect of bharad land in the absence of evidence about increase in value of lands by 10 % every year.

6. Per contra, Mr. Kamat, learned Counsel appearing for the

respondent submitted that the reference Court was absolutely justified in relying upon the Award dated 15th March, 1989 and granting 10 % increase every year in respect of the paddy fields, as well as the bharad land. According to the learned Counsel, the acquired lands had good potential and were similar to the lands which were subject-matter of the Award dated 15.03.1989, and, therefore, no interference is called for by this Court against the impugned Judgment and Award.

7. I have considered the submissions made by the learned Counsel appearing for the parties. In other connected appeals, under the same notification dated 4.7.1991, I have awarded Rs.19/- per sq. metre in respect of the paddy fields by giving increase of 5 % every year. For the same reasons, I award Rs.19/- per sq. metre in respect of survey Nos. 93/9 and 93/10 admeasuring 650 and 640 respectively, which are paddy fields.

8. In so far as bharad land bearing Survey No.98/1 is concerned, in my opinion, the reference Court was absolutely justified in relying upon the earlier Award dated 15.3.1989, which was an award in respect of similar land. The reference Court was also justified in granting increase of 10% every year from 30.4.1986. Accordingly, the compensation payable in respect of the bharad land, after taking 5 completed years, relying upon earlier Award, comes to Rs.20/- as on

30.04.1986 and thereafter granting increase of 10 % every year for five completed years, the compensation payable in respect of the bharad land on the date of publication of Section 4 notification comes to Rs.30/- .

9. In view of the above discussion, the appeal is partly allowed. The compensation payable in respect of the paddy fields bearing survey Nos. 93/9 and 93/10 is fixed at Rs.19/- per sq. metre and the compensation payable in respect of bharad land bearing Survey No.98/1 is fixed at Rs.30/- per sq. metre.

Having regard to the facts and circumstances of the case, the parties are directed to bear their own costs.

A.P. LAVANDE, J.

ssm.